UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,203	01/16/2002	Yoshifumi Takamoto	NIT-318	3049

7590   11/10/2005

Mattingly, Stanger & Malur, P. C.
Suite 370
1800 Diagonal Road
Alexandria, VA 22314

EXAMINER
RIAD, AMINE

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/046,203	TAKAMOTO ET AL.
	Examiner	Art Unit	
	Amine Riad	2113	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 January 2002</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-10</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-10</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date <u>ar. AK</u>

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Detailed Action

Claims 1-10 have been presented for examination.

Claims 1-10 have been rejected.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6-10 recite a computer program per se. A computer program per se does not

define any structural and functional interrelationships that permit the computer

programs functionality to be realized .

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-10 rejected under 35 U.S.C. 102(e) as being anticipated by Wang U.S.

Patent 6,898,727.

As per claim 1 and 6 Wang discloses method for correcting programs in a computer

system having a plurality of logical computers, said method comprising the steps of:

Copying programs and data under control of a first logical computer that is in

operation from a first storage means assigned to said first logical computer to a

second storage means (Column 11;line 22-26); activating a second logical computer

that has been in standby mode by using said copied programs (Column 10;line 11-12);

correcting said copied programs by using a correction program included in said copied

program (Column 15; line 59-62) the participation of the primary host is interpreted as

a correction ; switching control of a network from said first logical computer to said

second logical computer (Figure 1;item 140); and switching operation from said first

logical computer to said second logical computer that uses said corrected

programs(Column 11;line 27).

As per claim 2 and 7 Wang discloses method for correcting programs according to

claim 1, further comprising the steps of: collecting a log of update applied to said first

storage means from which the programs and the data are copied in said copying step;

and updating said second storage means to which the programs and the data are

copied by using said log after completion of said copying step (Column 12;line 44-54).

As per claim 3 and 8 Wang discloses method for correcting programs according to

claim 1, further comprising the steps of: sending a correction result of said copied

programs from said second logical computer to said first logical computer (Column 15;

line 59-62) The participation of the primary host is interpreted sending a correction

result and determining that the correction has been finished.

; and if it is determined that the correction of said programs has been finished

normally, switching operation from said first logical computer to said second logical

computer that uses said copied and corrected programs (Column 15, line 17-21) after

replicating is interpreted as the correction program has been finished normally.

As per claim 4 and 9 Wang discloses method for correcting programs according to

claim 1, further comprising the steps of: in said step of switching control of said

network, prohibiting acceptance of external requests via said network (to redirect all

communication is interpreted as prohibiting acceptance of external requests); (Column

21; line 22-46) completing process of the external requests that have been accepted

previously (Column 18; line 40-45) redirecting is interpreted as completing process of

the external; altering a first network address of a first network device under control of

said first logical computer to a second network address; and setting said first network

address as a network address of a second network device under control of said second

logical computer (Column 21; line 22-46).

As per claim 5 and 10 Wang discloses method for correcting programs according to

claim 1, further comprising the steps of: when the first network device under control of

said first logical computer that is in operation has the first network address as own

network address, in said step of switching control of said network, setting said first

network address as the network address of the second network device under control of

said second logical computer; altering the network address of said first network device

to the second network address; and in a packet that is transmitted externally via said

network and that has said second network address as own source address, altering

said source address to said first network address (Column 20;line 39-55).

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. U.S patent 6,185695 lacks correcting, and U.S. patent 5,852,724

runs duplicate with the first host application. See PTO 892.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Amine Riad whose telephone number is 571-272-8185.

The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).